

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

POLAROID CORPORATION,

Plaintiff and Counterclaim Defendant,

v.

HEWLETT-PACKARD COMPANY,

Defendant and Counterclaim Plaintiff.

C.A. No. 06-738-SLR

REDACTED

**DECLARATION OF WILLIAM J. MARSDEN JR. IN SUPPORT OF
DEFENDANT HEWLETT-PACKARD'S MEMORANDUM IN OPPOSITION
TO POLAROID'S MOTION TO PRECLUDE AND IN SUPPORT
OF HEWLETT-PACKARD'S CROSS-MOTION TO PRECLUDE**

FISH & RICHARDSON P.C.

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*Attorneys for Defendant and Counterclaim-Plaintiff
Hewlett-Packard Company*

Dated: July 10, 2008

I, William J. Marsden, Jr., declare as follows:

1. I am an attorney with Fish & Richardson P.C., counsel for Hewlett-Packard Company. I am a member of the Bar of the State of Delaware and of this Court. I have personal knowledge of the matters stated in this declaration and would testify truthfully to them if called upon to do so.
2. Attached hereto as Exhibit A are true and accurate copies of excerpts from the Deposition of Dr. Rangaraj M. Rangayyan, taken May 9, 2008.
3. Attached hereto as Exhibit B are true and accurate copies of excerpts from the Expert Report of Dr. Peggy Agouris Regarding U.S. Patent No. 4,829,381.
4. Attached hereto as Exhibit C are true and accurate copies of excerpts from the Deposition of Dr. Peggy Agouris, Ph.D., taken May 6-7, 2008.
5. Attached hereto as Exhibit D are true and accurate copies of excerpts from the Expert Report of Dr. Dan Schonfeld, dated April 18, 2008.
6. Attached hereto as Exhibit E is a true and accurate copy of Polaroid Corporation's First Amended Initial Disclosures Pursuant to Rule 26(a)(1), dated November 29, 2007.
7. Attached hereto as Exhibit F are true and accurate copies of excerpts from Polaroid Corporation's First Supplemental Response to Hewlett-Packard Co.'s First Set of Interrogatories, dated September 14, 2007.
8. Attached hereto as Exhibit G are true and accurate copies of excerpts from the Expert Report of Dr. Allyn D. Strickland, dated March 19, 2008.
9. Attached hereto as Exhibit H are true and accurate copies of excerpts from the Deposition of Robert H. Wallace, C.P.A., taken May 6, 2008.

10. Attached hereto as Exhibit I is a list of Bates numbers representing documents produced from the files of HP employee Jim Ruder, or documents prepared by, sent to, or referencing Mr. Ruder.

11. Attached hereto as Exhibit J are true and accurate copies of excerpts from the Deposition of Charles Moore, taken November 9, 2007.

12. Attached hereto as Exhibit K is a true and accurate copy of a June 25, 2008 email from counsel for HP, Daniel Winston, to David Higer and Courtney Holohan, counsel for Polaroid Corporation ("Polaroid").

13. Attached hereto as Exhibit L is a true and accurate copy of a June 26, 2008 email from Courtney Holohan to Daniel Winston.

14. Attached hereto as Exhibit M is a true and accurate copy of a July 1, 2008 email from Daniel Winston to Courtney Holohan.

15. Attached hereto as Exhibit N is a true and accurate copy of a letter dated July 2, 2008, sent via email, from David Higer to Matthew Bernstein and Daniel Winston, counsel for HP.

16. Attached hereto as Exhibit O is a true and accurate copy of a letter dated July 3, 2008, sent via email, from Daniel Winston to David Higer.

17. Attached hereto as Exhibit P is a true and accurate copy of a letter dated July 7, 2008, sent via email, from David Higer to Daniel Winston.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 10th day of July, 2008, at Wilmington, Delaware.


William J. Marsden, Jr.

CERTIFICATE OF SERVICE

I hereby certify that on July 10, 2008, I electronically filed with the Clerk of Court the foregoing document using CM/ECF which will send electronic notification of such filing(s) to the following counsel:

Via Email

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Courtesy Copy Via Federal Express

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/s/ William J. Marsden, Jr.

William J. Marsden, Jr.

EXHIBIT A

**REDACTED IN ITS
ENTIRETY**

EXHIBIT B

**REDACTED IN ITS
ENTIRETY**

EXHIBIT C

**REDACTED IN ITS
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EXHIBIT D

**REDACTED IN ITS
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EXHIBIT E

**IN THE UNITED STATES DISTRICT COURT
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POLAROID CORPORATION

Plaintiff,

v.

HEWLETT-PACKARD COMPANY

Defendant.

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CIVIL ACTION NO. 06-738 (SLR)

**POLAROID CORPORATION'S FIRST AMENDED INITIAL
DISCLOSURES PURSUANT TO RULE 26(a)(1)**

Plaintiff Polaroid Corporation ("Polaroid") hereby amends its initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) and 26(e). Polaroid reserves the right to supplement these initial disclosures in accordance with Rule 26(e) of the Federal Rules of Civil Procedure and/or in one or more discovery responses or expert reports.

I. IDENTIFICATION OF INDIVIDUALS

Rule 26(a)(1)(A):

The name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information.

Pursuant to Rule 26(a)(1)(A) of the Federal Rules of Civil Procedure, Polaroid identifies the following individuals likely to have discoverable information relevant to the facts alleged concerning infringement, validity, willfulness and/or damages.

No.	Individual	Subject(s)
1.	Bradford Kullberg Vice President, Corporate Business Development Polaroid Corporation 300 Baker Avenue Suite 330 Concord, MA 01742	Polaroid's licensing practices and financial history
2.	Donald S. Levinstone Danger, Inc. 3101 Park Blvd. Palo Alto CA 94306	Conception and reduction to practice of U.S. Patent No. 4,829,381
3.	Jim Lyons	Licensing negotiations between HP and Polaroid
4.	Nathan Moroney	Development of accused products and notification to HP of U.S. Patent No. 4,829,381
5.	Ron Reiling 22 Ridge Hill Road Sudbury, MA 01776	Licensing negotiations between HP and Polaroid
6.	Edward Roman 30 Parsonage Lane Topsfield, MA 01983	Prosecution of U.S. Patent No. 4,829,381
7.	Woo-Jin Song Pohang University of Science and Technology San 31 Hyojadong Namgu Pohang, Republic of Korea	Conception and reduction to practice of U.S. Patent No. 4,829,381
8.	Anand Srinivasan	Development of accused products
9.	Jay Thornton 56 Lincoln St. Watertown, MA 02472	Notification to HP of U.S. Patent No. 4,829,381
10.	Vlad Cardei	Notification to HP of U.S. Patent No. 4,829,381

No.	Individual	Subject(s)
11.	Julian Bullitt ZINK Imaging, LLC 1265 Main Street - W4 Waltham, MA 02451	Polaroid products and corporate history
12.	Thomas L. Beaudoin President/Chief Operations Officer/Chief Financial Officer Polaroid Corporation 300 Baker Avenue Suite 330 Concord, MA 01742	Polaroid corporate history and ownership of U.S. Patent No. 4,829,381
13.	Guo Li	Development of accused products
14.	Rhanjit Bhaskar	Development of accused products
15.	Mark Niemann	Development of accused products
16.	Any party that HP subpoenas, deposes, or calls at trial.	Infringement, validity, willfulness and/or damages

Messrs. Kullberg, Levinstone, Reiling, Roman, Thornton, Bullitt, and Beaudoin can be contacted through counsel for Polaroid.

In addition, the individuals identified above may have additional relevant information beyond what is indicated. Other individuals will be identified in documents produced in this action. Polaroid reserves the right to remove any person listed above if they determine that such person lacks discoverable information or possesses only cumulative knowledge to other persons listed. Polaroid expressly reserves the right to call as witnesses additional persons, if, during the course of discovery and investigation relating to this case, they learn that such additional persons have relevant information.

II. PRODUCTION OF DOCUMENTS

Rule 26(a)(1)(B):

A copy of, or a description by category and location of, all documents, electronically stored information, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment

Categories of documents that Polaroid may use to support its claims include the following documents that are located at Polaroid's offices in Waltham, Massachusetts:

1. Polaroid's financial and marketing documents.
2. Polaroid's internal documents relating to the inventions disclosed in U.S. Patent No. 4,829,381.
3. Copies of the patents-in-suit and their prosecution histories.
4. Polaroid's licenses.
5. Polaroid's corporate history documents.

Information regarding Polaroid can be found at www.polaroid.com.

The following documents are publicly available:

6. HP press releases and web materials describing the accused products.
7. Articles by third parties describing the features and operation of the accused products.

The following electronically stored information is located at W-300, 300 5th Avenue, Waltham, MA 02451:

8. Legal, research and development, engineering, company management documents, and user-archived electronic mail located on MERLOT and USHQFS01 Servers.
9. Engineering drawings, documents related to Polaroid's intellectual property development, and personal files located on ZEUS Server.
10. Electronic mail located on USHQVS Server.

The following is Polaroid's pre-discovery disclosure of e-discovery information pursuant to the paragraph 2 of the Scheduling Order:

- Likely Custodians of Electronic Materials:

Name	Title	Responsibilities
Bradford J. Kullberg	Vice President Corporate Business Development Polaroid Corporation	Manage Polaroid's business development activities.
William P. Dumont	IT Director Polaroid Corporation	Manage Polaroid's IT and computer systems.

- Relevant Electronic Systems:

To the extent that relevant electronically stored information exists, Polaroid states that the likely relevant electronic systems that have been in place since work began on the '381 patent include: custodian hard drives, offline media, online email, private network shares, public network shares, and Polaroid's intranet servers. Electronically stored information created on media that has been decommissioned is not readily accessible. There are also backup tapes that are not readily accessible due to undue burden and/or substantial cost, given the likelihood of relevant information stored on the tapes.

- The person responsible for the retention of Polaroid's electronically stored information is William Dumont.
- Polaroid's e-discovery liaison is David W. Higer, and he can be contacted as follows:

David W. Higer
Kirkland & Ellis LLP
200 East Randolph Drive, Chicago, IL 60601
(312) 469-7029 (o)
(312) 660-9730 (f)
dhiger@kirkland.com

III. COMPUTATION OF DAMAGES

Rule 26(a)(1)(C):

A computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered.

Polaroid is seeking an amount adequate to compensate Polaroid for Hewlett-Packard Company's ("HP") infringement that is no less than a reasonable royalty, including pre-judgment and post-judgment interest. Polaroid is also seeking recovery of its costs and attorney's fees incurred in bringing this action. In addition, Polaroid is seeking an increase in damages found or assessed due to HP's willful infringement. At this time, however, calculating these elements of damages is premature. In addition, Polaroid has not yet determined what additional remedies it is entitled to. As discovery proceeds in this action, Polaroid will supplement its disclosures in accordance with Rule 26(e) of the Federal Rules of Civil Procedure and/or in one or more discovery responses or expert reports.

IV. INSURANCE AGREEMENTS

Rule 26(a)(1)(D):

For inspection and copying as under Rule 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

There are no applicable agreements.

Polaroid's Initial Disclosures are made without waiving (1) the right to object to discovery on the grounds of attorney client or work-product privileges, competency, undue burden, relevancy and materiality, or any other proper grounds; (2) the right to object to the use of any such information, for any purpose, in whole or in part, in any later proceeding in this or

any other action; and (3) the right to object on any grounds, at any time, to any discovery request or proceeding relating to or involving the subject matter of this disclosure.

Dated: November 29, 2007

Respectfully submitted,

POLAROID CORPORATION

/s/ David W. Higer

Jack B. Blumenfeld (#1014)

Julie Heaney (#3052)

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(312) 861-2000

CERTIFICATE OF SERVICE

I, David W. Higer, hereby certify that on November 29, 2007, I served
**POLAROID'S FIRST AMENDED INITIAL DISCLOSURES PURSUANT TO RULE
26(a)(1)** upon the following in the manner indicated:

VIA E-MAIL and OVERNIGHT DELIVERY:

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VIA E-MAIL:

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Bradley Coburn (coburn@fr.com)

Joanne Owens (owens@fr.com)

Carol Jo Cameron (cameron@fr.com)

Ben Harjo (harjo@fr.com)

Jean Manis (manis@fr.com)

/s/David W. Higer

EXHIBIT F

**REDACTED IN ITS
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EXHIBIT G

**REDACTED IN ITS
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EXHIBIT H

**REDACTED IN ITS
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EXHIBIT I

Documents – Ruder Listed as Custodian	
HPPOL 0133551	
HPPOL 0133580	
HPPOL 0133666	
HPPOL 0133688	
HPPOL 0133697	
HPPOL 0133704	
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Documents – Ruder prepared, received, or is referenced.	
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HPPOL 0420998	
HPPOL 0421009	
HPPOL 0421128	
HPPOL 0421336	
HPPOL 0425094	
HPPOL 0425254	
HPPOL 0425262	
HPPOL 0425492	
HPPOL 0425536	
HPPOL 0425572	
HPPOL 0425788	
HPPOL 0425812	
HPPOL 0425824	
HPPOL 0425833	

HPPOL 0433718	
HPPOL 0436939	
HPPOL 0505055	
HPPOL 0633267	
HPPOL 0634243	
HPPOL 0634246	

EXHIBIT J

**REDACTED IN ITS
ENTIRETY**

Exhibit K

From: Winston, Daniel C.
Sent: Wednesday, June 25, 2008 2:35 PM
To: 'David Higer'; 'Courtney Holohan'
Cc: 'Courtney Holohan'
Subject: Polaroid v HP: Trial Witness Depositions

Dave and Courtney:

We would like to start scheduling depositions of any undeposed witnesses disclosed on our trial witness lists, particularly given the likelihood of vacations in July.

We will make available any or all of the undeposed fact witnesses on our lists, including Rusty Bailey, Paul Frederickson (only as to any fact witness testimony based on his work at HP outside his expert report), Chris Hayes, Juli Lee, Jim Ruder and Paul Ruiz. In addition, to the extent you wish to depose a significant number of these witnesses, we would be willing to discuss reasonably extending the 20-hour total time limit for these additional depositions. Please let me know which if any of these depositions you wish to take, and generally when, and I will check the witnesses' and our availability.

We would like to take the deposition of Thomas Beaudoin, who appears to be the only undeposed fact witness on your list to date. Due to scheduling conflicts on our end, we would need to take this deposition in late July. The proposed date for this deposition is July 25, or otherwise July 22 or 23. Presuming Mr. Beaudoin lives in Boston based on his position at Polaroid in Waltham, the location for the deposition would be here at Choate in Boston.

I understand that there could be additional, undeposed witnesses disclosed in the final lists on June 30, and if so we can deal with those then.

Please let me know. Thanks.

Dan

Daniel C. Winston

CHOATE

Choate, Hall & Stewart LLP
Two International Place
Boston, MA 02110
t 617-248-4049
f 617-248-4000
dwinston@choate.com
www.choate.com

7/9/2008

Exhibit L

From: Courtney Holohan [mailto:cholohan@kirkland.com]
Sent: Thursday, June 26, 2008 12:18 PM
To: Winston, Daniel C.
Subject: Re: Polaroid v HP: Trial Witness Depositions

Dear Dan:

Thank you for your June 25, 2008 email.

We would like to take the deposition of Rusty Bailey who was previously disclosed by HP. Please let us know if July 17 works for his deposition, and in what city that deposition will occur. If that date does not work, please let us know what dates do work.

HP did not disclose the other witnesses you list below during discovery and they are a subject of our pending motion to preclude. Your offer of their depositions does not cure the prejudice to Polaroid from HP's failure to disclose these witnesses during discovery, and the depositions are not allowed under the Court's Order, paragraph 3(f), permitting depositions of witnesses previously disclosed during discovery.

We are endeavoring to get dates of availability for Mr. Beaudoin's deposition for you.

Best regards,

Courtney

G. Courtney Holohan
Kirkland & Ellis LLP
200 E. Randolph Drive
Chicago, IL 60601
Phone: 312-861-3027
Fax: 312-861-2200

"Winston, Daniel C." <dwinston@choate.com>

7/9/2008

06/25/2008 01:35 PM

To "David Higer" <dhiger@kirkland.com>, "Courtney Holohan"
<cholohan@kirkland.com>
CC "Courtney Holohan" <cholohan@kirkland.com>
Subject Polaroid v HP: Trial Witness Depositions

Dave and Courtney:

We would like to start scheduling depositions of any undeposed witnesses disclosed on our trial witness lists, particularly given the likelihood of vacations in July.

We will make available any or all of the undeposed fact witnesses on our lists, including Rusty Bailey, Paul Frederickson (only as to any fact witness testimony based on his work at HP outside his expert report), Chris Hayes, Juli Lee, Jim Ruder and Paul Ruiz. In addition, to the extent you wish to depose a significant number of these witnesses, we would be willing to discuss reasonably extending the 20-hour total time limit for these additional depositions. Please let me know which if any of these depositions you wish to take, and generally when, and I will check the witnesses' and our availability.

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I understand that there could be additional, undeposed witnesses disclosed in the final lists on June 30, and if so we can deal with those then.

Please let me know. Thanks.

Dan

Daniel C. Winston

CHOATE

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dwinston@choate.com
www.choate.com

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Exhibit M

From: Winston, Daniel C.
Sent: Tuesday, July 01, 2008 12:47 PM
To: 'Courtney Holohan'
Subject: FW: Polaroid v HP: Trial Witness Depositions

Courtney:

Is Polaroid opting not to take the offered fact depositions of Paul Frederickson, Chris Hayes, Juli Lee, Jim Ruder and Paul Ruiz? Please let me know for their scheduling purposes. Thanks.

Dan

From: Courtney Holohan [mailto:cholohan@kirkland.com]
Sent: Thursday, June 26, 2008 12:18 PM
To: Winston, Daniel C.
Subject: Re: Polaroid v HP: Trial Witness Depositions

Dear Dan:

Thank you for your June 25, 2008 email.

We would like to take the deposition of Rusty Bailey who was previously disclosed by HP. Please let us know if July 17 works for his deposition, and in what city that deposition will occur. If that date does not work, please let us know what dates do work.

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We are endeavoring to get dates of availability for Mr. Beaudoin's deposition for you.

Best regards,

Courtney

G. Courtney Holohan

7/9/2008

Kirkland & Ellis LLP
200 E. Randolph Drive
Chicago, IL 60601
Phone: 312-861-3027
Fax: 312-861-2200

"Winston, Daniel C." <dwinston@choate.com>

06/25/2008 01:35 PM

To "David Higer" <dhiger@kirkland.com>, "Courtney Holohan"
<cholohan@kirkland.com>

cc "Courtney Holohan" <cholohan@kirkland.com>

Subject Polaroid v HP: Trial Witness Depositions

Dave and Courtney:

We would like to start scheduling depositions of any undeposed witnesses disclosed on our trial witness lists, particularly given the likelihood of vacations in July.

We will make available any or all of the undeposed fact witnesses on our lists, including Rusty Bailey, Paul Frederickson (only as to any fact witness testimony based on his work at HP outside his expert report), Chris Hayes, Juli Lee, Jim Ruder and Paul Ruiz. In addition, to the extent you wish to depose a significant number of these witnesses, we would be willing to discuss reasonably extending the 20-hour total time limit for these additional depositions. Please let me know which if any of these depositions you wish to take, and generally when, and I will check the witnesses' and our availability.

We would like to take the deposition of Thomas Beaudoin, who appears to be the only undeposed fact witness on your list to date. Due to scheduling conflicts on our end, we would need to take this deposition in late July. The proposed date for this deposition is July 25, or otherwise July 22 or 23. Presuming Mr. Beaudoin lives in Boston based on his position at Polaroid in Waltham, the location for the deposition would be here at Choate in Boston.

I understand that there could be additional, undeposed witnesses disclosed in the final lists on June 30, and if so we can deal with those then.

Please let me know. Thanks.

Dan

Daniel C. Winston

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7/9/2008

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Exhibit N

KIRKLAND & ELLIS LLP
AND AFFILIATED PARTNERSHIPS

200 East Randolph Drive
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David W. Higer
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312 861-2000

www.kirkland.com

Facsimile:
312 861-2200
Dir. Fax: 312 861-2200

July 2, 2008

VIA EMAIL

Matthew C. Bernstein, Esq.
Mintz Levin Cohn Ferris Glovsky and Popeo PC
5355 Mira Sorrento Place, Suite 600
San Diego, CA 92121-3039

Daniel C. Winston, Esq.
Choate, Hall & Stewart
Two International Place
Boston, MA 02110

Re: *Polaroid Corporation v. Hewlett Packard Company*
USDC-D. Del.-C.A. No. 06-738 (SLR)

Dear Messrs. Bernstein and Winston:

I write in response to Mr. Bernstein's June 30, 2008 letter regarding the scope of Rusty Bailey's testimony and Mr. Winston's July 1, 2008 e-mail regarding the depositions of witnesses previously undisclosed during discovery. HP did not disclose Mr. Bailey as a witness during discovery for anything other than as a 30(b)(6) witness on the marketing, advertisement, and promotion of HP camera products identified in HP's response to Polaroid's Interrogatory No. 15 and the process by which HP determined what features to include in HP camera products identified in HP's response to Polaroid's Interrogatory No. 15. HP did not disclose Paul Frederickson, Chris Hayes, Juli Lee, Jim Ruder and Paul Ruiz during discovery, and they are the subject of our pending motion to preclude.

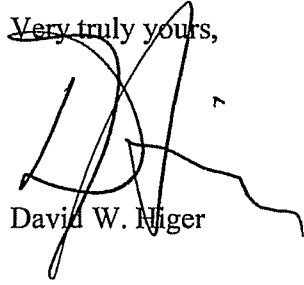
At this time, depositions of these witnesses (other than for Mr. Bailey's previously disclosed 30(b)(6) testimony) is not allowed under the Court's Order, paragraph 3(f).

Even if depositions of previously undisclosed witnesses were allowed, depositions will not cure the prejudice to Polaroid from HP's failure to disclose these witnesses or the full scope of their trial testimony during discovery.

Accordingly, Polaroid objects to your indication that Mr. Bailey may testify on topics beyond those for which he was disclosed as a 30(b)(6) witness during discovery or that Paul Frederickson, Chris Hayes, Juli Lee, Jim Ruder and Paul Ruiz may testify at all.

Matthew C. Bernstein, Esq.
Daniel C. Winston, Esq.
July 2, 2008
Page 2

Very truly yours,



David W. Niger

DWH

cc: Jack B. Blumenfeld, Esq.

Exhibit O

CHOATE HALL & STEWART LLP

Daniel C. Winston
t 617-248-4049
f 617-502-4049
dwinston@choate.com

July 3, 2008

VIA EMAIL

David W. Higer Esq.
Kirkland & Ellis LLP
200 East Randolph Drive
Chicago, IL 60601

Re: Polaroid Corporation v. Hewlett Packard Company
USDC-D. Del.-C.A. No. 06-738 (SLR)

Dear Mr. Higer:

I write in response to your letter to me and Matt Bernstein dated July 2, 2008, in which you object to HP's identification of Rusty Bailey, Paul Frederickson, Chris Hayes, Juli Lee, Jim Ruder and Paul Ruiz as potential fact witnesses at trial. Your objection is based upon several incorrect premises.

First, Paul Frederickson and Juli Lee were each disclosed in HP's initial disclosures dated May 22, 2007, as well as in HP's supplemental disclosures dated March 18, 2008.

Second, all six witnesses were disclosed during discovery in numerous ways, in various capacities, regardless of formal listing in initial disclosures. Thus, all six witnesses were properly listed by HP on its disclosure of fact witnesses dated June 9, 2008.

Third, all six of these witnesses were listed by HP as potential rebuttal witnesses on HP's disclosure of rebuttal fact witnesses dated June 30, 2008. There is no requirement in the Court's Order that rebuttal fact witnesses have been disclosed during discovery.

Finally, HP does not agree that depositions of these witnesses are in any way precluded. Polaroid is free to proceed as it wishes, consistent with the procedure provided for this purpose in paragraph 3(f) of the Court's Order.

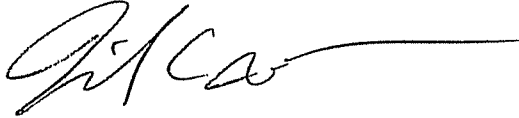
All six of these witnesses are available for deposition by Polaroid during the month of July, 2008. Polaroid declines that opportunity at its option.

I will be out of the office next week, so if you wish to arrange for depositions please contact my partner, Bob Frank, directly next week. Since we need to determine for these witnesses'

David W. Higer, Esq.
July 3, 2008
Page 2

scheduling purposes whether they will be deposed this month, we will assume if you do not contact us by close of business next Tuesday, July 8, 2008, that you have chosen not to take the opportunity to depose them.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. C. Winston', followed by a long horizontal flourish line extending to the right.

Daniel C. Winston

DCW/kmm

cc: Robert S. Frank, Jr., Esq.
Matthew C. Bernstein, Esq.

Exhibit P

KIRKLAND & ELLIS LLP

AND AFFILIATED PARTNERSHIPS

200 East Randolph Drive
Chicago, Illinois 60601

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Facsimile:
312 861-2200
Dir. Fax: 312 861-2200

July 7, 2008

VIA EMAIL

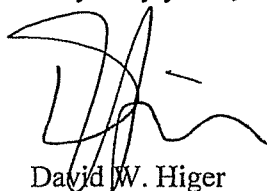
Daniel C. Winston, Esq.
Choate, Hall & Stewart
Two International Place
Boston, MA 02110

Re: *Polaroid Corporation v. Hewlett Packard Company*
USDC-D. Del.-C.A. No. 06-738 (SLR)

Dear Mr. Winston:

I write in response to your July 3, 2008 letter. As we have stated in our prior correspondence, *see, e.g.*, July 2, 2008 Higer Ltr. to Bernstein and Winston, HP did not disclose numerous witnesses (or the scope of testimony) during discovery. Certain of these witnesses are the subject of Polaroid's motion to preclude. *Id.* Depositions of undisclosed witnesses are not permitted or authorized under the Court's Order, paragraph 3(f). We will not be taking any depositions not authorized by Court Order. Thus, we will not take the depositions of Paul Frederickson, Chris Hayes, Juli Lee, Jim Ruder and Paul Ruiz.

Very truly yours,



David W. Higer

DWH

cc: Jack B. Blumenfeld, Esq.